

HOUSE BILL 1261

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By: **Delegate Boafo**

Introduced and read first time: February 7, 2025

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Employment Discrimination – Intent**

3 FOR the purpose of prohibiting certain acts, regardless of the actor’s intent, that have a
4 discriminatory effect in employment; providing that a person who unintentionally
5 violates a certain provision of law has not committed an unlawful employment
6 practice under certain circumstances; and generally relating to intent and
7 employment discrimination.

8 BY repealing and reenacting, without amendments,

9 Article – State Government

10 Section 20–601(a)

11 Annotated Code of Maryland

12 (2021 Replacement Volume and 2024 Supplement)

13 BY adding to

14 Article – State Government

15 Section 20–601(l)

16 Annotated Code of Maryland

17 (2021 Replacement Volume and 2024 Supplement)

18 BY repealing and reenacting, with amendments,

19 Article – State Government

20 Section 20–602 and 20–606

21 Annotated Code of Maryland

22 (2021 Replacement Volume and 2024 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

24 That the Laws of Maryland read as follows:

25 **Article – State Government**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 20-601.

2 (a) In this subtitle the following words have the meanings indicated.

3 (L) **“UNLAWFUL EMPLOYMENT PRACTICE” MEANS AN ACT THAT IS**
4 **PROHIBITED UNDER § 20-606 OF THIS SUBTITLE.**

5 20-602.

6 It is the policy of the State, in the exercise of its police power for the protection of the
7 public safety, public health, and general welfare, for the maintenance of business and good
8 government, and for the promotion of the State’s trade, commerce, and manufacturers:

9 (1) to assure all persons equal opportunity in receiving employment and in
10 all labor management–union relations, regardless of race, color, religion, ancestry or
11 national origin, sex, age, marital status, sexual orientation, gender identity, military
12 status, or disability unrelated in nature and extent so as to reasonably preclude the
13 performance of the employment; and

14 (2) to that end, to prohibit discrimination **OR ACTS THAT HAVE A**
15 **DISCRIMINATORY EFFECT, REGARDLESS OF THE ACTOR’S INTENT**, in employment by
16 any person.

17 20-606.

18 (a) An employer may not:

19 (1) fail or refuse to hire, discharge, or otherwise discriminate against any
20 individual with respect to the individual’s compensation, terms, conditions, or privileges of
21 employment because of:

22 (i) the individual’s race, color, religion, sex, age, national origin,
23 marital status, sexual orientation, gender identity, genetic information, military status, or
24 disability unrelated in nature and extent so as to reasonably preclude the performance of
25 the employment; or

26 (ii) the individual’s refusal to submit to a genetic test or make
27 available the results of a genetic test;

28 (2) limit, segregate, or classify its employees or applicants for employment
29 in any way that would deprive or tend to deprive any individual of employment
30 opportunities or otherwise adversely affect the individual’s status as an employee because
31 of:

32 (i) the individual’s race, color, religion, sex, age, national origin,
33 marital status, sexual orientation, gender identity, genetic information, military status, or

1 disability unrelated in nature and extent so as to reasonably preclude the performance of
2 the employment; or

3 (ii) the individual's refusal to submit to a genetic test or make
4 available the results of a genetic test;

5 (3) request or require genetic tests or genetic information as a condition of
6 hiring or determining benefits;

7 (4) fail or refuse to make a reasonable accommodation for the known
8 disability of an otherwise qualified employee or an applicant for employment; or

9 (5) engage in harassment of an employee.

10 (b) An employment agency may not:

11 (1) fail or refuse to refer for employment or otherwise discriminate against
12 any individual because of the individual's race, color, religion, sex, age, national origin,
13 marital status, sexual orientation, gender identity, military status, or disability unrelated
14 in nature and extent so as to reasonably preclude the performance of the employment; or

15 (2) classify or refer for employment any individual on the basis of the
16 individual's race, color, religion, sex, age, national origin, marital status, sexual
17 orientation, gender identity, military status, or disability unrelated in nature and extent
18 so as to reasonably preclude the performance of the employment.

19 (c) A labor organization may not:

20 (1) exclude or expel from its membership, or otherwise discriminate
21 against, any individual because of the individual's race, color, religion, sex, age, national
22 origin, marital status, sexual orientation, gender identity, military status, or disability
23 unrelated in nature and extent so as to reasonably preclude the performance of the
24 employment;

25 (2) limit, segregate, or classify its membership, or classify or fail or refuse
26 to refer for employment any individual, in any way that would deprive or tend to deprive
27 the individual of employment opportunities, limit the individual's employment
28 opportunities, or otherwise adversely affect the individual's status as an employee or as an
29 applicant for employment because of the individual's race, color, religion, sex, age, national
30 origin, marital status, sexual orientation, gender identity, military status, or disability
31 unrelated in nature and extent so as to reasonably preclude the performance of the
32 employment; or

33 (3) cause or attempt to cause an employer to discriminate against an
34 individual in violation of this section.

1 (d) An employer, labor organization, or joint labor–management committee
2 controlling apprenticeship or other training or retraining programs, including on–the–job
3 training programs, may not discriminate against any individual in admission to, or
4 employment in, any program established to provide apprenticeship or other training or
5 retraining because of the individual’s race, color, religion, sex, age, national origin, marital
6 status, sexual orientation, gender identity, military status, or disability unrelated in nature
7 and extent so as to reasonably preclude the performance of the employment.

8 (e) (1) Except as provided in paragraph (2) of this subsection, an employer,
9 labor organization, or employment agency may not print or cause to be printed or published
10 any notice or advertisement relating to employment by the employer, membership in or any
11 classification or referral for employment by the labor organization, or any classification or
12 referral for employment by the employment agency that indicates any preference,
13 limitation, specification, or discrimination based on race, color, religion, sex, age, national
14 origin, marital status, sexual orientation, gender identity, disability, or military status.

15 (2) A notice or advertisement may indicate a preference, limitation,
16 specification, or discrimination based on religion, sex, age, national origin, marital status,
17 disability, or military status if religion, sex, age, national origin, marital status, disability,
18 or military status is a bona fide occupational qualification for employment.

19 (f) An employer may not discriminate or retaliate against any of its employees or
20 applicants for employment, an employment agency may not discriminate against any
21 individual, and a labor organization may not discriminate or retaliate against any member
22 or applicant for membership because the individual has:

23 (1) opposed any practice prohibited by this subtitle; or

24 (2) made a charge, testified, assisted, or participated in any manner in an
25 investigation, proceeding, or hearing under this subtitle.

26 **(G) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERSON**
27 **MAY NOT ACT IN A MANNER, REGARDLESS OF INTENT, THAT HAS A DISCRIMINATORY**
28 **EFFECT AGAINST AN INDIVIDUAL IN RELATION TO AN ACT PROHIBITED UNDER THIS**
29 **SECTION BECAUSE OF THE INDIVIDUAL’S RACE, COLOR, RELIGION, SEX, AGE,**
30 **NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY,**
31 **DISABILITY, OR MILITARY STATUS.**

32 **(2) A PERSON WHO, WITHOUT DISCRIMINATORY INTENT, VIOLATES**
33 **PARAGRAPH (1) OF THIS SUBSECTION HAS NOT COMMITTED AN UNLAWFUL**
34 **EMPLOYMENT PRACTICE IF:**

35 **(I) THE VIOLATION WAS JUSTIFIED BY A LEGITIMATE BUSINESS**
36 **NECESSITY; AND**

1 **(II) THERE WAS NO OTHER LESS DISCRIMINATORY MEANS OF**
2 **ACCOMPLISHING THAT BUSINESS NECESSITY.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2025.